

Supreme Court of Florida

No. SC17-1808

RONALD PALMER HEATH,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[February 28, 2018]

PER CURIAM.

We have for review Ronald Palmer Heath's appeal of the circuit court's order denying Heath's motion filed pursuant to Florida Rule of Criminal Procedure 3.851. This Court has jurisdiction. *See* art. V, § 3(b)(1), Fla. Const.

Heath's motion sought relief pursuant to the United States Supreme Court's decision in *Hurst v. Florida*, 136 S. Ct. 616 (2016), and our decision on remand in *Hurst v. State (Hurst)*, 202 So. 3d 40 (Fla. 2016), *cert. denied*, 137 S. Ct. 2161 (2017). After this Court decided *Hitchcock v. State*, 226 So. 3d 216 (Fla.), *cert. denied*, 138 S. Ct. 513 (2017), Heath responded to this Court's order to show cause arguing why *Hitchcock* should not be dispositive in this case.

After reviewing Heath's response to the order to show cause, as well as the State's arguments in reply, we conclude that Heath is not entitled to relief. Heath was sentenced to death following a jury's recommendation for death by a vote of ten to two. *Heath v. State*, 648 So. 2d 660, 663 (Fla. 1994). Heath's sentence of death became final in 1995. *Heath v. Florida*, 515 U.S. 1162 (1995). Thus, *Hurst* does not apply retroactively to Heath's sentence of death. *See Hitchcock*, 226 So. 3d at 217. Accordingly, we affirm the denial of Heath's motion.

The Court having carefully considered all arguments raised by Heath, we caution that any rehearing motion containing reargument will be stricken. It is so ordered.

LABARGA, C.J., and QUINCE, POLSTON, and LAWSON, JJ., concur.
PARIENTE, J., concurs in result with an opinion.
LEWIS and CANADY, JJ., concur in result.

PARIENTE, J., concurring in result.

I concur in result because I recognize that this Court's opinion in *Hitchcock v. State*, 226 So. 3d 216 (Fla. 2017), *cert. denied*, 138 S. Ct. 513 (2017), is now final. However, I continue to adhere to the views expressed in my dissenting opinion in *Hitchcock*.

An Appeal from the Circuit Court in and for Alachua County,
James M. Colaw, Judge - Case No. 011989CF003026AXXXXX

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